# LABOR POLICIES OF THE TRANSPORTATION ACT FROM THE POINT OF VIEW OF RAILROAD EMPLOYEES

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SINCE I last had the pleasure of meeting with you, many changes have taken place in the industrial and economic situation of the country, and indeed it is a pleasure for me to be again honored with an invitation to meet with you and discuss briefly the industrial situation from the viewpoint of one who represents railroad employees. However, in appearing before you on this occasion it is in an individual capacity, and the views presented will be more personal than those represented by my organization or any other.

The organization that I have the honor of representing is not now, nor has it been, engaged in any of the disputes or the litigation mentioned by the preceding speaker.[1] The relations between the railroads and the employees in transportation service are very cordial in every respect and there is no question at present regarding the right of the employees' organization to represent the employees in our classes. Consequently, what I shall have to say at this time will be predicated on the fact that no such controversy exists so far as our group is concerned. Also I would have you bear in mind that we consider the employees engaged in conducting transportation as being somewhat differently situated from those engaged in other lines of railroad work. And for that reason we feel that probably some special consideration should be given to the employees engaged in this non-competitive occupation as compared with those engaged in a competitive occupation.

The public generally has become interested in wages of railroad employees and in the adjustment of disputes arising between the employer and the employee in the transportation industry. This has been brought about largely by public dis-

[1] Mr. Heiserman, see pp. 293-302.

cussion of these questions through the press and on the platform, and many different views have been expressed as to the importance of these problems and as to their proper solution. Extreme positions have been taken by those championing the cause of the employer as well as by those advocating the cause of the employee. Many public utterances have been made that tend largely to exaggeration. It is thought by many that such utterances have been largely prompted either by bias or through misinformation. It is therefore a commendable and a very desirable position that has been taken by your Academy in the discussion of these questions to bring together, as far as possible, the different elements, and obtain the different views, in order that you may have as nearly as possible the position of all.

There are those who hold that the labor organizations have gone far beyond the bounds of reason and propriety in their demands for wage increases and are unfair in their position in the adjustment of transportation disputes. On the other hand there are those who hold that the transportation companies have been exacting and unreasonable in their demands upon the employees. There is still another group that holds that both the carriers and the employees are unreasonable and unfair, and a large percentage of the public who are not fully informed of the facts believe that both the carriers and the employees are extremists and have gone beyond the bounds of reason and fair dealing.

As much as I should like to agree with these different elements, I must of necessity disagree with the large majority of the views that have been advanced and hold to a more reasonable and impartial view, one of justice and fair dealing to both the carriers and the employees. However, to arrive at what is right we should insist upon having the facts, and when the facts are produced then a correct judgment can be had. The one great trouble has been that attempts have been made to solve these problems on the basis of colored facts or half-truths for so long that a prejudiced and biased judgment has obtained in many instances. For instance, there are those who believe that the wage level for train and yard service employees should be based on the pre-war level, and there are others who as persistently contend that wages should be based on the war-time basis or one still higher. There are other who hold that

the cost of living should be the prime factor in determining such questions, and that the wage rate should be based upon a standard of living that would afford only the necessaries of life, or in other words, provide enough food to prevent dissolution of the body, together with only a meager supply of clothing. Others hold that wages of railroad employees should be based upon the ability of the carriers to pay with a transportation rate at the lowest possible level. Still there are others who hold that the American public is only interested in having the lowest transportation rate possible, regardless of the financial ability of the carriers or the living conditions of the employees.

These are all wrong, and in my judgment the proper and legitimate position is that transportation rates should be fair and reasonable and afford a fair return on capital legitimately invested; and on the other hand the wages of the employees should be just and adequate to afford a proper American standard of living, which should not only provide food and clothing but allow for recreation, the education of the children, and give the employee the opportunity to lay aside funds for the care of himself and of his dependents in case of old age or disability. Wage standards and levels should be established independent of and separate from transportation rates. Neither should be dependent upon the other.

In the discussion of the reestablishment of pre-war levels, oftentimes the fact is not taken into consideration that if the war had not occurred conditions would have compelled a readjustment of the wages of transportation employees upward not later than the early part of 1917, because the wage cycle made such a readjustment imperative. If the European War had not come on and the United States had not been drawn into the World War and things had followed their usual course, an adjustment upward of the wages of train and yard service employees would have taken place about the time the United States entered the war. But with the advent of the European War in 1914, which caused a rapid advance in living costs, an adjustment should have taken place about the latter part of 1916. This was of course accelerated by the entry of our country into the war early in 1917, but no readjustment was made in wage rates until nearly the middle of 1918, and as a matter

of fact a complete and proper adjustment was never had in wage rates until long after the close of the war and then, in so far as train and yard service employees were concerned, did not reach a proper level. No sooner, however, was the last adjustment made than a clamor was started to reduce wages. The unfairness and injustice of this situation had an undesirable effect on the transportation employees because they had not received any advance at the time the other classes of labor received substantial advances, and at no time had the advance in wages kept pace with the advance in living costs.

The public mind was unduly and improperly preyed upon by a system of publicity and propaganda to such an extent that substantial justice was withdrawn from railroad employees and an undesirable and unfair estimate of the true situation arose. Naturally, when such agitation became rampant and the public mind became disturbed, as is always the case in such instances, the railroad employees were placed in a most unfair position, and generally speaking the public was ready to condemn them without a knowledge of the facts. Of course, for the time being the railroad employees felt that they were being unjustly and unfairly criticized and that it was impossible for them to obtain equal rights. They did not feel that the reduction in wages handed them by the United States Railroad Labor Board in 1921 was just and fair under the existing circumstances, but, rather than have trouble and turmoil, they finally bowed to public sentiment and respected the decision of the Board. Encouraged, as it seemed, by success in obtaining one reduction, the railroads immediately sought further reductions. These the employees bitterly and justifiably resisted.

This naturally had a tendency toward creating a fear in the minds of the employees that the governmental agency was being unduly influenced by the false propaganda being freely circulated over the country. At the same time there arose agitation for the repeal of state laws, laxity in enforcement of safety laws, and other agitation for inroads into the conditions of employment of the employees, many of which had been in effect for a quarter of a century or more, and the whole agitation was based on the false assumption that a reduction along these lines would result in a corresponding reduction in transportation rates. Of course such reductions in rates did not

follow, therefore the agitation has fallen flat to a great extent, and the public is beginning to take a more sober view of the situation.

The unsoundness of the theory that wages should be based on the ability of the carrier to pay is just as apparent as the falsity of the theory that rates can be fixed on a particular railroad on the basis of the density of traffic handled on that line, because the financial condition and ability to pay of the various railroads is just as diversified as the density of traffic on the particular lines. So the entire theory that a rate structure can be built up on individual systems or parts thereof on the basis of density of traffic, and on other systems or parts thereof on the small amount of traffic handled, is no more unreasonable or unscientific than the theory that wages should be fixed on the different systems on the financial condition or ability of the roads to pay. In both instances it has long been recognized by those who have studied the question that a rate structure must be built with the object in view of providing just and reasonable rates in given territories or in the country as a whole, and just so with the wage structure. It must be founded on a just and reasonable wage, irrespective of the ability of any particular carrier to pay this rate.

Unfortunately, beginning with the passage of the Adamson Law in 1916 by the Congress and a decision of the Supreme Court of the United States which in substance held that Congress had absolute authority over the transportation systems, the railroad labor situation has been the subject of entirely too much agitation and discussion. This has resulted in extreme positions being taken by the various parties interested and has been the cause of entirely too much public alarm and unrest.

Despite the much-heralded national peril of disputes on the railroads, there is no more real danger now, so far as a paralysis of transportation is concerned, than there was fifteen or twenty years ago. The plain truth of the matter is, there are certain people who use this question as a pastime and in most instances the matter is exaggerated to the greatest extent. Even if so, there are many worse things that could happen than to have a railroad strike occasionally. For instance, the practice of disseminating false, malicious and misleading statements is worse in its effects than any strike that could possibly take

place. Ever since the beginning of the railroad business in this country there have been different methods employed for the adjustment of disputes between the railroads and their employees, and for a brief review of these different methods your indulgence is asked for a few moments.

When the business was in its infancy, direct contact was had between the employer and the individual employee, but as the industry grew and expanded and more men were employed, individual contact was impossible and the employees were represented in small groups by local committees on different parts of the respective lines. This was extended from time to time until general committees representing the employees were organized to deal with the various operating officials of the lines as a whole. Later, when the railroads began to form group organizations for mutual benefit and protection, their example was followed by group organizations of employees, the latter generally being represented by the General Chairmen of the systems in such conference, until the eight-hour movement was started. It was then ascertained that the railroads were uniting as a whole in opposition to this movement, and finally a national conference committee of the railroads and the employees was agreed upon to handle this matter for the country as a whole. At the time negotiations were in progress, through a multiplicity of advertising, propaganda and other methods, it was pointed out that a national calamity faced the country and that if the eight-hour day became effective the railroads faced immediate bankruptcy, with the result that the National Administration and later Congress intervened and passed what was known as the Adamson Eight-Hour Law. This brought the industrial situation on the railroads into the national limelight.

For a number of years there was no Federal agency in existence that dealt with disputes on the railroads. Finally the Mediation and Arbitration Act came into existence. It was amended from time to time and became a real effective agency in the solution of these questions. In fact it afforded a method of accommodation in virtually all disputes until the eight-hour movement was inaugurated. As a matter of fact, there are a great many of us who hold the view that it would not have been a failure in this case had not undesirable publicity become rampant with regard to this question.

Immediately following the passage of the Adamson Eight-Hour Law, it became apparent that there were those who did not desire friendly or mutual relations between employer and employee in connection with disputes on the railroads, but who thought that a governmental agency should be established. Many hearings were held before the different committees of Congress, but no conclusion was arrived at up to the time that the United States entered the World War and the railroads were taken over by the Federal Government. Of course one of the first duties devolving upon the United States Railroad Administration was the establishment of an agency to deal with wages and working conditions on the railroads. There was first established the board to investigate and recommend wage increases. This was composed of four public men. After extensive hearings they arrived at the conclusion that substantial increases were necessary for the transportation employees. This was followed by the creation of a court of railroad wages and working conditions, bipartisan in character, consisting of six members, three from the railroad employees and three from the railroad management. The duty of this board was to investigate and recommend adjustment in wages and rules, and it continued to function until the railroads were returned to their owners. In addition thereto there were established boards of adjustment, bipartisan in character, to adjust disputes other than those arising over wage questions. These boards were likewise continued until they closed up all cases arising under Federal control.

When it became apparent that the railroads were to be returned to their owners, Congress directed its attention to the passage of suitable laws, including laws dealing with the adjustment of wage and other disputes on the railroads. This resulted in the establishment of what is known as the United States Railroad Labor Board, tripartite in character, with three representatives of the public, three of the railroads and three of the employees. In addition to this, the law contained a provision for boards of adjustment, bipartisan and voluntary in character, to handle disputes other than those arising from wage questions. Unfortunately however, such adjustment boards were not established promptly. The result was a general congestion of the docket of the U. S. Railroad Labor Board,

and this brought about further criticism and alarm as to the value of the tribunal.

During the consideration of this species of legislation, the railroad employees most strenuously opposed the enactment of the tripartite plan, but advocated the establishment of bipartisan boards, with appeal boards or a referee in case of a deadlock. However, despite their opposition, the Transportation Act became effective and the United States Railroad Labor Board was created and has now been in existence two years. There has not been sufficient time, in my judgment, to determine the value of the plan, and as a matter of fact a great deal of criticism, whether just or unjust, has been made of this plan. Personally, I have not believed that a tripartite plan is as desirable as a bipartisan plan, and I believe the future will fully justify my position. As a matter of fact, the experience of the past has to a certain extent justified my views with reference to this question. For example, the bipartisan boards dealing with the adjustment of disputes on the railroads have in every instance reached a conclusion and with as little criticism as seems possible, whereas the Railroad Labor Board has been the subject of most severe criticism and agitation. My principal objection to a plan of this kind has been that no industrial court yet known has proved a success. This was true of the thorough trial of this species of legislation made by Australia and the Australasian countries. The so-called Industrial Court of Kansas is going through a most severe test, and I am of the opinion that it is less effective than those systems where the disputants have equal representation, and that it must ultimately fail.

Compulsory arbitration in this country in the strict sense has not been resorted to in the adjustment of disputes of this character, but instances may be cited which have been tried in foreign countries and proved a failure in each instance. I personally believe that such a law could not be passed in this country and be effective, because it seems repugnant to our form of government.

The most effective results in this or any other country, judged by the experiences of the various countries, have been from mediation, conciliation and voluntary arbitration, and the most effective remedy in the form of a law in the United States has

been the Erdman Act, later succeeded by the Newlands Act, which was displaced by the Transportation Act of 1920.

Observation and investigation of labor disputes lead me to believe that mediation is the most effective and desirable plan, and when it is coupled with conciliation and voluntary arbitration it is almost certain to afford an accommodation in every instance.

Whether or not the United States Railroad Labor Board will succeed and be a satisfactory and effective means of settling labor disputes on the American railroads, depends upon the character, ability and fitness of its members and its freedom from entangling alliances and political entanglements. In the selection and maintenance of this Board partisanship and favoritism must be cast aside, and practical, experienced and impartial men placed thereon. Any interference or undue influence exercised by the Congress or the executive will tend to disrupt and destroy this agency. Mutual respect by the railroads, the employees and the public must be given it or it will fail. Likewise its conduct must be such that it will command the respect of each of these parties. It cannot, however, handle all the disputes over wages, rules and conditions of employment and function with any degree of satisfaction, and if it is continued there must of necessity be other and additional agencies established and maintained auxiliary thereto.

Penalties for strikes and lockouts in the existing law are not desirable, and in my opinion are objectionable to our form of government. Therefore I consider it wholly unnecessary to place such penalties in the law and I disagree with those who advocate putting so-called "teeth" in the law.

This brings us then to specific conclusions as to a proper solution of railroad labor disputes, and I would suggest the following:

1. The reestablishment of the Board of Mediation and Conciliation, with the right to bring about, if possible, voluntary arbitration.

2. The establishment of bipartisan boards of adjustment, on which the railroads and the employees are equally represented.

3. The reestablishment of the rights of the respective parties to adjust any dispute by mediation, conciliation or voluntary arbitration if possible, before reference to any board.

4. The maintenance, if necessary, of a board to act as referee, which for the time being, until otherwise changed, would be the U. S. Railroad Labor Board; this Board to be appealed to only in case of deadlock by bipartisan boards or in case of failure to adjust any dispute through mediation, conciliation or arbitration.

5. The establishment of a system or plan by which exact facts concerning wages, grievances and conditions of employment may be accurately obtained in a fair and impartial manner. The prohibition by law or otherwise of the circulation of propaganda concerning railroad disputes which has the tendency of alarming or inflaming the public mind.